

CHAPTER 246

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 19-1055

BY REPRESENTATIVE(S) Bird, Arndt, Buentello, Catlin, Cutter, Duran, Esgar, Exum, Galindo, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Kipp, Kraft-Tharp, Liston, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez A., Valdez D., Will, Wilson;
also SENATOR(S) Zenzinger and Coram, Bridges, Court, Fields, Ginal, Gonzales, Lee, Moreno, Pettersen, Priola, Tate, Todd, Winter.

AN ACT

CONCERNING THE PROVISION OF STATE FINANCIAL ASSISTANCE FOR PUBLIC SCHOOL CAPITAL CONSTRUCTION, AND, IN CONNECTION THEREWITH, INCREASING THE AMOUNT OF RETAIL MARIJUANA EXCISE TAX REVENUE THAT IS CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND, INCREASING THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS PAYABLE BY THE STATE FOR FINANCIAL ASSISTANCE PROVIDED UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS, MORE PRECISELY TYING THE TOTAL AMOUNT OF FINANCIAL ASSISTANCE PROVIDED TO CHARTER SCHOOLS TO THE NUMBER OF STUDENTS ENROLLED IN CHARTER SCHOOLS, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-43.7-104, **amend** (2)(d) and (3); and **add** (2)(e) as follows:

22-43.7-104. Public school capital construction assistance fund - creation - crediting of money to fund - use of fund - emergency reserve - creation - reserve account - creation and use. (2) (d) ~~Beginning January 1, 2014, and ending June 30, 2018, the state treasurer, as provided in section 39-28.8-305 (1)(a), shall annually credit to the assistance fund the first forty million dollars received and collected from the excise tax on retail marijuana imposed pursuant to part 3 of article 28.8 of title 39. On and after~~ FOR THE STATE FISCAL YEAR COMMENCING July 1, 2018, the state treasurer, as provided in section 39-28.8-305 (1)(a), shall ~~annually~~ credit to the assistance fund the greater of the first forty million dollars received and collected from the excise tax on retail marijuana imposed pursuant to part 3 of article 28.8 of title 39 or ninety percent of the money received and collected from the tax. FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2019, AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE STATE TREASURER, AS PROVIDED IN SECTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

39-28.8-305 (1)(a), SHALL ANNUALLY CREDIT TO THE ASSISTANCE FUND ALL OF THE MONEY RECEIVED AND COLLECTED FROM THE EXCISE TAX ON RETAIL MARIJUANA IMPOSED PURSUANT TO PART 3 OF ARTICLE 28.8 OF TITLE 39. FOR STATE FISCAL YEARS COMMENCING BEFORE JULY 1, 2019, the state treasurer shall credit twelve and five-tenths percent of the amount annually credited pursuant to this subsection (2)(d) to the charter school facilities assistance account, which account is created within the assistance fund. FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2019, THE STATE TREASURER SHALL CREDIT TO THE CHARTER SCHOOL FACILITIES ASSISTANCE ACCOUNT A PERCENTAGE OF THE AMOUNT CREDITED PURSUANT TO THIS SUBSECTION (2)(d) THAT IS EQUAL TO THE PERCENTAGE OF PUPIL ENROLLMENT, AS DEFINED IN SECTION 22-54-103 (10), STATEWIDE REPRESENTED BY PUPILS WHO WERE ENROLLED IN CHARTER SCHOOLS FOR THE PRIOR SCHOOL YEAR. THE DEPARTMENT OF EDUCATION SHALL NOTIFY THE STATE TREASURER OF THE APPLICABLE PERCENTAGE NO LATER THAN JUNE 1 OF THE IMMEDIATELY PRECEDING FISCAL YEAR.

(e) ON THE EFFECTIVE DATE OF THIS SUBSECTION (2)(e), IF POSSIBLE, OR AS SOON AS POSSIBLE THEREAFTER, THE STATE TREASURER SHALL TRANSFER FOUR MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS FROM THE ASSISTANCE FUND TO THE CHARTER SCHOOL FACILITIES ASSISTANCE ACCOUNT OF THE ASSISTANCE FUND CREATED IN SUBSECTION (2)(d) OF THIS SECTION.

(3) Subject to annual appropriation, the department may expend moneys in the assistance fund for the purposes of paying the direct and indirect administrative costs, including but not limited to the costs of conducting or contracting for the financial assistance priority assessment required by section 22-43.7-108 (1), incurred by the division, the board, and the department in exercising their powers and duties pursuant to this article, providing financial assistance, making payments required by section 22-43.7-114, and paying any transaction costs necessarily incurred in connection with the provision of financial assistance as authorized by this article. FOR STATE FISCAL YEAR 2020-21, THE GENERAL ASSEMBLY SHALL APPROPRIATE ONE HUNDRED SIXTY MILLION DOLLARS FROM THE ASSISTANCE FUND FOR USE BY THE BOARD IN PROVIDING FINANCIAL ASSISTANCE IN THE FORM OF MATCHING CASH GRANTS ONLY.

SECTION 2. In Colorado Revised Statutes, 22-43.7-110, **amend** (2)(a) introductory portion, (2)(a)(V), and (2)(a)(VI); and **add** (2)(a)(VII) and (2)(a)(VIII) as follows:

22-43.7-110. Financial assistance - grants - lease-purchase agreements.

(2) Subject to the following requirements and limitations, the board may also instruct the state treasurer to enter into lease-purchase agreements on behalf of the state to provide financial assistance to applicants by financing public school facility capital construction projects for which the state board has recommended and the capital development committee has authorized the provision of financial assistance that involves a lease-purchase agreement pursuant to section 22-43.7-109 (7):

(a) Subject to the limitation specified in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION, the maximum total amount of annual lease payments payable by the state during any fiscal year under the terms of all outstanding lease-purchase agreements entered into by the state treasurer as instructed by the board pursuant to this subsection (2) is:

(V) Ninety million dollars for the 2016-17 fiscal year; and

(VI) One hundred million dollars for the 2017-18 fiscal year and for each fiscal year thereafter. AND 2018-19 FISCAL YEARS;

(VII) ONE HUNDRED FIVE MILLION DOLLARS FOR THE 2019-20 FISCAL YEAR; AND

(VIII) ONE HUNDRED TEN MILLION DOLLARS FOR THE 2020-21 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER.

SECTION 3. In Colorado Revised Statutes, **amend** 22-43.7-201 as follows:

22-43.7-201. Full-day kindergarten facility capital construction fund - creation - grants - definitions. (1) ~~There is hereby established in the state treasury~~ The full-day kindergarten facility capital construction fund, referred to in this part 2 as the "fund": "FUND", IS HEREBY CREATED IN THE STATE TREASURY. The fund ~~shall consist~~ CONSISTS of any moneys annually appropriated thereto by the general assembly for the purposes of this part 2. All interest and income earned on the deposit of moneys in the fund shall be credited to the fund. ~~Any unexpended and unencumbered moneys remaining in the fund at the end of a budget year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.~~ MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD MAY EXPEND MONEY FROM THE FUND AS SPECIFIED IN THIS PART 2.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, the public school capital construction assistance board shall use the ~~moneys~~ MONEY in the fund to provide grants or matching grants to any school district or institute charter school that is undertaking a capital construction project to renovate a facility, rent a facility, or provide a temporary auxiliary facility that will be used in conjunction with providing a full-day kindergarten program. The board shall award a grant or matching grant pursuant to this part 2 to a school district or institute charter school only if, without the grant or matching grant, the school district or institute charter school would be unable to provide a facility in which to offer a full day of kindergarten to more students than were offered a full day of kindergarten in the 2007-08 budget year. For purposes of this part 2, "temporary auxiliary facility" means a temporary building that will be placed on the same campus as a main educational facility.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, each budget year, the board shall use fifty percent of the ~~moneys~~ MONEY in the fund to provide grants pursuant to this part 2 and fifty percent of the ~~moneys~~ MONEY in the fund to provide matching grants pursuant to this part 2.

(4) (a) AS USED IN THIS SUBSECTION (4), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "APPLICANT SHARE PERCENTAGE" MEANS, WITH RESPECT TO AN APPLICANT,

THE PERCENTAGE OF TOTAL EQUITABLY ADJUSTED FUNDING STATEWIDE FOR BOTH ALL APPLICANTS AND ALL POTENTIAL APPLICANTS WHO DO NOT ACTUALLY APPLY FOR GRANTS AS AUTHORIZED BY THIS SUBSECTION (4) REPRESENTED BY THE EQUITABLY ADJUSTED FUNDING FOR THE APPLICANT.

(II) "EQUITABLE ADJUSTMENT FACTOR" MEANS, WITH RESPECT TO BOTH AN APPLICANT AND A POTENTIAL APPLICANT THAT DOES NOT ACTUALLY APPLY FOR A GRANT AS AUTHORIZED BY THIS SUBSECTION (4) THE SUM OF THE APPLICANT'S:

(A) SIZE FACTOR, AS DETERMINED PURSUANT TO SECTION 22-54-104 (5)(b)(1.5);

(B) PERCENTAGE OF ENROLLED PUPILS WHO ARE ELIGIBLE FOR FREE OR REDUCED PRICE LUNCH;

(C) PERCENTAGE OF ENROLLED PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS, AS DEFINED IN SECTION 22-24-103 (4); AND

(D) PERCENTAGE OF ENROLLED PUPILS WHO ARE SPECIAL EDUCATION STUDENTS.

(III) "EQUITABLY ADJUSTED FUNDING" MEANS, WITH RESPECT TO BOTH AN APPLICANT AND A POTENTIAL APPLICANT WHO DOES NOT ACTUALLY APPLY FOR A GRANT AS AUTHORIZED BY THIS SUBSECTION (4) THE PRODUCT OF TOTAL APPLICANT PER PUPIL FUNDING AND THE EQUITABLE ADJUSTMENT FACTOR.

(IV) "TOTAL APPLICANT PER PUPIL FUNDING" MEANS, WITH RESPECT TO BOTH AN APPLICANT AND A POTENTIAL APPLICANT WHO DOES NOT ACTUALLY APPLY FOR A GRANT AS AUTHORIZED BY THIS SUBSECTION (4) THE PRODUCT OF THE NUMBER OF CHILDREN ENROLLED IN A FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAM PROVIDED BY THE APPLICANT DURING THE 2019-20 BUDGET YEAR AND THE APPLICANT'S PER PUPIL FUNDING AMOUNT, AFTER APPLICATION OF SECTION 22-54-104 (5)(g), FOR THE 2019-20 BUDGET YEAR.

(b) ON JULY 1, 2019, THE STATE TREASURER SHALL TRANSFER TWENTY-FIVE MILLION DOLLARS FROM THE ASSISTANCE FUND TO THE FUND. DURING THE 2018-19 BUDGET YEAR, THE BOARD SHALL ACCEPT APPLICATIONS FROM APPLICANTS THAT WILL PROVIDE A FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAM FOR THE 2019-20 BUDGET YEAR FOR FINANCIAL ASSISTANCE IN THE FORM OF FORMULA-BASED GRANTS IN A TOTAL AMOUNT OF UP TO TWENTY-FIVE MILLION DOLLARS FOR THE 2019-20 BUDGET YEAR. THE BOARD SHALL ESTABLISH GRANT APPLICATION REQUIREMENTS AND DEADLINES THAT ALLOW APPLICANTS TO EFFICIENTLY PROVIDE THE INFORMATION NEEDED TO ALLOW THE BOARD TO QUICKLY DETERMINE THE ESTIMATED AMOUNT OF THE FORMULA-BASED GRANT TO BE AWARDED TO EACH APPLICANT AND EXPEDITE DISTRIBUTION OF THE FORMULA-BASED GRANTS.

(c) THE AMOUNT OF THE GRANT TO BE PROVIDED TO EACH APPLICANT PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION IS DETERMINED BY THE FOLLOWING FORMULA:

THE LESSER OF \$25,000,000 X THE APPLICANT SHARE PERCENTAGE OR THE AMOUNT ACTUALLY APPLIED FOR BY THE APPLICANT.

ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER FROM THE FUND TO THE

ASSISTANCE FUND ANY PORTION OF THE TWENTY-FIVE MILLION DOLLARS PREVIOUSLY TRANSFERRED FROM THE ASSISTANCE FUND TO THE FUND AS REQUIRED BY SUBSECTION (4)(b) OF THIS SECTION THAT IS NOT DISTRIBUTED TO APPLICANTS AS FORMULA-BASED GRANTS DURING THE 2019-20 BUDGET YEAR.

(d) ON JULY 1, 2019, OR AS SOON AS FEASIBLE THEREAFTER, THE BOARD SHALL CAUSE TO BE DISTRIBUTED TO EACH APPLICANT EIGHTY PERCENT OF THE ESTIMATED AMOUNT OF THE APPLICANT'S FORMULA-BASED GRANT. AS SOON AS FEASIBLE FOLLOWING THE FINAL DETERMINATION OF STATEWIDE AND APPLICANT FULL-DAY KINDERGARTEN ENROLLMENT FOR THE 2019-20 BUDGET YEAR AND NO LATER THAN FEBRUARY 15, 2020, THE BOARD SHALL DETERMINE THE FINAL AMOUNT OF EACH APPLICANT'S FORMULA-BASED GRANT AND CAUSE TO BE DISTRIBUTED TO EACH APPLICANT ANY ADDITIONAL AMOUNT NEEDED TO ENSURE THAT EACH APPLICANT RECEIVES THE FULL FINAL AMOUNT OF ITS GRANT.

(e) AS SOON AS POSSIBLE AFTER RECEIVING EACH DISTRIBUTION DESCRIBED IN THIS SECTION, THE AUTHORIZER FOR A CHARTER SCHOOL THAT OPERATES A FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAM SHALL DISTRIBUTE TO THE CHARTER SCHOOL, IN A LUMP SUM, ONE HUNDRED PERCENT OF THE AMOUNT RECEIVED THAT IS ATTRIBUTABLE TO THE FULL-DAY KINDERGARTEN PUPILS ENROLLED IN THE CHARTER SCHOOL.

(f) AN APPLICANT MAY EXPEND A FORMULA-BASED GRANT RECEIVED PURSUANT TO THIS SUBSECTION (4) DURING THE 2019-20 BUDGET YEAR FOR THE PURPOSE OF ACQUIRING FURNITURE, FIXTURES, OR OTHER FIXED OR MOVEABLE EQUIPMENT, EXCLUDING CONSTRUCTION EQUIPMENT, THAT IS NEEDED TO CONDUCT A FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAM OR A PRESCHOOL EDUCATIONAL PROGRAM.

SECTION 4. In Colorado Revised Statutes, 22-54-124, **amend** (3)(a)(IV)(B); and **add** (3)(a)(IV)(C) as follows:

22-54-124. State aid for charter schools - use of state education fund money - definitions. (3) (a) (IV) (B) The total amount of state education fund ~~moneys~~ MONEY to be appropriated for all eligible districts and all eligible institute charter schools for the 2015-16 budget year and FOR each budget year thereafter THROUGH THE 2018-19 BUDGET YEAR is twenty million dollars.

(C) THE TOTAL AMOUNT OF STATE EDUCATION FUND MONEY TO BE APPROPRIATED FOR ALL ELIGIBLE DISTRICTS AND ALL ELIGIBLE INSTITUTE CHARTER SCHOOLS FOR THE 2019-20 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER IS TWENTY MILLION DOLLARS MULTIPLIED BY THE QUOTIENT OF THE NUMBER OF STUDENTS INCLUDED IN THE STATEWIDE FUNDED PUPIL COUNT WHO WERE ENROLLED IN CHARTER SCHOOLS FOR THE SCHOOL YEAR IMMEDIATELY PRECEDING THE BUDGET YEAR AND THE NUMBER OF STUDENTS INCLUDED IN THE STATEWIDE FUNDED PUPIL COUNT WHO WERE ENROLLED IN CHARTER SCHOOLS FOR THE 2017-18 SCHOOL YEAR.

SECTION 5. In Colorado Revised Statutes, **amend** 39-28.8-305 as follows:

39-28.8-305. Distribution of tax collected - repeal. (1) All money received and collected in payment of the tax imposed by this part 3 shall be transmitted to the state treasurer, who shall distribute the money as follows:

(a) (I) ~~Until June 30, 2018, the first forty million dollars received and collected annually shall be transferred to the public school capital construction assistance fund created by article 43.7 of title 22 or to any successor fund dedicated to a similar purpose; and~~

(II) (A) ~~On and after~~ FOR THE STATE FISCAL YEAR COMMENCING July 1, 2018, the greater of the first forty million dollars received and collected annually or ninety percent of the money received and collected annually shall be transferred to the public school capital construction assistance fund created by article 43.7 of title 22 or to any successor fund dedicated to a similar ~~purpose; and~~ PURPOSE.

(B) THIS SUBSECTION (1)(a)(II) IS REPEALED, EFFECTIVE JULY 1, 2020.

(III) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2019, AND FOR EACH STATE FISCAL YEAR THEREAFTER, ALL OF THE MONEY RECEIVED AND COLLECTED ANNUALLY SHALL BE TRANSFERRED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22 OR TO ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE.

(b) (I) Any amount remaining after the transfer IS MADE pursuant to ~~subsection (1)(a)~~ SUBSECTION (1)(a)(II) of this section shall be transferred to the public school fund created in section 3 of article IX of the state constitution, which is the same as the public school fund described in section 22-41-102.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 6. Appropriation. For the 2019-20 state fiscal year, \$50,000,000 is appropriated to the department of education. This appropriation is from the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S. To implement this act, the department may use this appropriation for public school capital construction assistance board cash grants.

SECTION 7. Appropriation. For the 2019-20 state fiscal year, \$25,000,000 is appropriated to the department of education. This appropriation is from the full-day kindergarten facility capital construction fund created in section 22-43.7-201 (1), C.R.S. To implement this act, the department may use this appropriation for grants made pursuant to section 22-43.7-201 (4), C.R.S.

SECTION 8. Appropriation. For the 2019-20 state fiscal year, \$5,000,000 is appropriated to the department of education. This appropriation is from the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S. To implement this act, the department may use this appropriation for public school capital construction assistance board lease payments.

SECTION 9. Appropriation. For the 2019-20 state fiscal year, \$656,559 is appropriated to the department of education. This appropriation is from the state education fund created in section 17(4)(a) of article IX of the state constitution. To implement this act, the department may use this appropriation for state aid to charter school facilities.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

SECTION 10. Appropriation to the department of education for the fiscal year beginning July 1, 2018. In Session Laws of Colorado 2018, section 2 of chapter 424, (HB 18-1322), **amend** Part III (2)(C)(2) and the affected totals, as the affected totals are amended by SB19-128 and as the affected totals are further amended by section 8 of SB19-207, as follows:

Section 2. Appropriation.

**PART III
DEPARTMENT OF EDUCATION**

(2) ASSISTANCE TO PUBLIC SCHOOLS

(C) Grant Programs, Distributions, and Other Assistance

(2) Capital Construction

Division of Public School

Capital Construction

Assistance 1,407,245

1,407,245^f

(15.0 FTE)

Public School Capital

Construction Assistance

Board - Lease Payments 81,000,000

81,000,000^f

Public School Capital

Construction Assistance

Board - Cash Grants⁵ 70,000,000

70,000,000^f

Financial Assistance		
Priority Assessment	150,000	150,000 ^f
State Aid for Charter		
School Facilities	25,000,000	25,000,000 ^g
	29,250,000	29,250,000 ^g
	<u>177,557,245</u>	
	181,807,245	

^f These amounts shall be from the Public School Capital Construction Assistance Fund created in Section 22-43.7-104 (1), C.R.S.

^g Of this amount, \$20,000,000 shall be from the State Education Fund created in Section 17 (4)(a) of Article IX of the State Constitution, and ~~\$5,000,000~~ \$9,250,000 shall be from the Charter School Facilities Assistance Account, an account within the Public School Capital Construction Assistance Fund, created in Section 22-43.7-104 (2)(d), C.R.S. Pursuant to Section 17 (3) of Article IX of the State Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the State Constitution.

TOTALS PART III

(EDUCATION)	\$5,683,206,524	\$3,101,068,143	\$885,333,333 ^a	\$1,040,224,578 ^b	\$39,385,509 ^c	\$617,194,961 ^d
	<u>\$5,687,456,524</u>			<u>1,044,474,578^b</u>		

^a This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

^b Of this amount, \$4,046,629 contains an (I) notation.

^c Of this amount, \$20,100,000 contains an (I) notation.

^d This amount contains an (I) notation.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2019